

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

- against -

MEMORANDUM AND ORDER

DANIEL MONSANTO LOPEZ,

16 Cr. 643-1 (NRB)

Defendant.

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NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

Defendant Daniel Monsanto Lopez moves pro se for compassionate release from FCI Fort Dix, where he has served less than half of his 135-month sentence for conspiring to distribute and possess with intent to distribute cocaine. Mr. Monsanto Lopez, who is 45 years old, argues that his sex, ethnicity, nonfunctioning gallbladder, hypertension, and family health history, in the setting of FCI Fort Dix during the COVID-19 pandemic, warrant his release. The Government opposes Mr. Monsanto Lopez's motion.

Mr. Monsanto Lopez moves for compassionate release under 18 U.S.C. § 3582(c)(1)(A)(i), which permits a court to "reduce a term of imprisonment" if, after considering the factors set forth in 18 U.S.C. § 3553(a), "it finds that . . . extraordinary and compelling reasons warrant such a reduction . . . and that such a reduction is consistent with applicable policy statements issued by the Sentencing Commission." 18 U.S.C. § 3582(c)(1)(A). As the proponent of his release, Mr. Monsanto Lopez bears the burden of

demonstrating that his release is justified under Section 3582(c)(1)(A). See United States v. Butler, 970 F.2d 1017, 1026 (2d Cir. 1992).

While Mr. Monsanto Lopez's motion is long on statistics -- he emphasizes in support of his motion that COVID-19 has more strongly impacted Hispanic males such as himself -- it is short on specifics, and he has failed to demonstrate extraordinary and compelling reasons for his release. Mr. Monsanto Lopez is 45 years old, has 68 months remaining on his 135-month sentence, and he does not purport to suffer from, nor do his Bureau of Prisons medical records and pre-sentence investigation report dated May 4, 2018 evidence that he suffers from, a medical condition that the CDC has identified as a risk factor for severe illness from COVID-19. See Groups at Higher Risk for Severe Illness, CDC, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/groups-at-higher-risk.html> (last updated May 14, 2020).


Even if Mr. Monsanto Lopez could establish extraordinary and compelling reasons for his release, Section 3582(c)(1)(A) requires the Court to consider the factors set forth in 18 U.S.C. § 3553(a), which, for all of the reasons reviewed at sentencing, strongly counsel against releasing Mr. Monsanto Lopez, who was the organizer

and leader of a sophisticated, years-long narcotics smuggling and distribution conspiracy that trafficked at least 20 kilograms of cocaine from Puerto Rico to the Bronx.

The Court accordingly denies Mr. Monsanto Lopez's motion for compassionate release.

SO ORDERED.

Dated: New York, New York
May 20, 2020



NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

Copy to:

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